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BOOK REVIEWS.

CHARLES S. BULKLEY, *Editor-in-Charge.*

AMERICAN LEGISLATURES AND LEGISLATIVE METHODS. By PAUL S. REINSCH. New York: The Century Co. 1907. pp. x, 337.

Professor Reinsch has written an interesting book on what might seem to be an unpromising subject. American Legislatures, both national and state, have long furnished color to journalistic painters of American political life, but it cannot be said on the whole that the color has been pleasing or that the picture has made the decent American citizen over proud. American legislative methods, simply considered as means to an end, make pretty dry reading for the average man. Nevertheless Professor Reinsch has made an interesting book. He has treated the politicians with a seriousness that they cannot usually expect, and sometimes it almost seems from the author's discussion that our legislators are working on a serious and a more or less consistent plan.

The chapter on the House of Representatives is especially interesting. In the first place, it ought to be said that the description of the methods practised before Speaker Reed loomed large upon the scene, and the account of the changes which were worked out by that unique personality, and as a consequence of his own achievements, is accurate and clear. One may learn from the book the old practices and their evil consequences, and may follow the stages of the development of the rules and practices to the present day. What is perhaps not so clear from this conscientious study is the character of the American legislator, and yet therein lies the germ of the American, or, indeed, any other, legislative system. Professor Reinsch does not neglect the human element of the problem, but the dominance of the power of conditions has its accustomed place. It makes a great difference whether a political problem is regarded from the point of view of German philosophy or of English practice and experience.

The problem, however, is clearly presented. We possessed an impossible House of Representatives. Little could be accomplished. We are now considering, of course, the normal years that succeeded the abnormal years of the war, and of reconstruction, when there were two parties alternating with each other in the control of the House. Serious business could not be transacted partly because the methods of the House lent themselves to the aid of obstruction, and partly because the Representatives were unwilling, or unable, to attend to serious business. In this respect there has been no change. Since the war of secession the House has not initiated and passed, aside from the annual money bills, a single serious measure for the general welfare after intelligent consideration. Tariff bills have been enacted, always at the bidding of special interests. Coinage and currency laws have been placed upon the statute book, but they have been supported or opposed for other reasons than those which ought to determine the action of a law-making body. A railroad rate law has been rushed through the House at the dictation of leaders, under whip and spur, and

without debate. Before Speaker Reed, however, revolutionized the procedure of the House, even party measures fared badly. The old rules gave the minority almost complete control of legislation. This would be bad whatever the character of the body; it was especially bad in such a body as the House of Representatives.

With few exceptions the members of that House cannot be called national legislators, nor are many of them concerned with questions relating to the general welfare. They are governed and guided by the desire to get into the House, and to remain there or to go higher. To accomplish this object they must be loyal, that is obedient, to the party organizations of their several states and localities. The state organization often means one of the Senators from a member's state. As it is the business of the Representative to preserve for himself the favor of the organization and its leader, so it is the business of the organization to keep in good humor the "boys" who work the machine. The most effective way to do this is to keep the "boys" in jobs, to fatten them on rich contracts, while it is also well constantly to "do something for the district," to build new court houses and post offices, to improve its waterways, etc.

All this is an old story, but we cannot understand legislative methods without understanding the kind of men who devise them and the reason, or the philosophy, if it may be so dignified, for choosing these particular methods. Little, as has been said, could be accomplished under the old rules because the minority controlled. Finally and properly the majority determined that the reign of the minority should cease, and that the power of the majority should be established. The majority had been prevented from passing its party measures, while personal measures could not be passed by log-rolling which was frequently expensive. From the "pork barrel" members have taken much spoil for their districts and themselves, but in the taking, the minority has been able to demand a share sometimes disproportioned to its numerical merits. But a better system was needed, whether the work to be done was for the nation or for the party.

Professor Reinsch has most luminously pointed out the way in which the needed change was effected. Power was concentrated. What has been called "the hierarchy" was established. In a word, the Speaker was made the House of Representatives. There may be made against him, it is true, successful revolts, but, in general, it may be said that, under the present rules, the Speaker is the House. It is needless to point out the steps that were taken to reach this result. Professor Reinsch, as has been said, has admirably performed that task. The Committee on Rules, of which the Speaker is a member, determines what legislation shall pass the House, and by its power to prevent, or to guide amendments, its control is so complete that it gives to every measure the character it desires. Naturally, as Professor Reinsch suggests, this Committee is not necessarily composed of the ablest men of the House. It is not possible that it should be. It is composed of men who, in one way or another, have been able to remain in the House for a number of years, and, necessarily, of men who are willingly obedient to the Speaker.

This concentration of power is, to a certain degree, essential if the House is to transact business, but, like other power in the hands of American politicians, it is abused. It was such an abuse, for instance, when, in 1897,

Speaker Reed refused to appoint the Committees of the House until he had secured the passage of the bill he favored, and had prevented votes on measures of which he did not approve. There was never, before or since, so flagrant an employment of committee chairmanships, or places, as bribes for votes. Much of the power of this Committee on Rules has been acquired by "construction," but let us speak of it as development. Government as an art must develop to meet changing conditions. There has been nothing sinister, and nothing that is really evil in this growth. The danger is that the House will assume that the end has been attained by the establishment of the power of the Speaker and his associates, whereas this is only a stage in what should be the progression. There ought to be established as soon as may be the accompanying responsibility. In some way, the methods of the House should not permit its rulers to remain in power after such defeats as have been suffered by Speaker Henderson and Speaker Cannon and their Committees on Rules.

Professor Reinsch points out that the paramount influence upon legislation is the President's or the Speaker's will, depending on the strength of the personality of the one or the other; but after all, it is the Speaker who possesses the dominant authority. If Congress were scientifically constituted, the constructive tasks of the most important legislation should be in the hands of recognized men who also possess administrative power. However, we are endeavoring, contrary to all previous and to all other contemporaneous legislative methods, to leave legislation entirely in the hands of those who have no practical experience with the administration of laws, and we must deal with the situation as we find it. The House of Representatives is now endeavoring to sustain an organization that will enable it to work. In doing this the old anarchy has been cured. The House can no longer be compelled to stand still by the minority. It no longer feels the destructive influence of the irremediable conflicts resulting from antagonistic desires and greeds and ambitions; but the old evil has not yet been cured; it is only in the process of being cured.

The Speaker's desire for legislation, aside from that included in the appropriation bills, is naturally confined to the measures which are, in his opinion, for the good of the party. Above all other members of the House, he is intensely concerned to maintain his party's majority. The legislation in which he is interested is legislation which will procure votes for his party, that especially which will carry the majority of the districts, thereby keeping in his hands the great power that every ambitious man loves. The Speaker will act with the President, will even be influenced by a strong President, until he becomes convinced that the President's policy is likely to decrease the party's majority in the House. The President, however, must be of the Speaker's own party, and this is significant. During most of the few normal political years that we have had since 1873, the Speaker has been a Democrat and the President a Republican. So, for different reasons, the Speaker is the dominant authority in legislation, and he looks upon legislation from the point of view of the party and especially from his own point of view. The House, in other words, is just as much influenced by the peculiar character of the American legislator as it was when the rules encouraged anarchy.

Here we find the reason why the development which was started by Speaker Reed does not proceed. Power has passed from the House to its leader and a select body of its members, and there the movement has stopped. If it remains as it is, the House must continue to deteriorate. Professor Reinsch points out some of the evils that have already resulted. The members are so domineered over that the House has lost its self-respect; it becomes more and more dependent on the Senate, and often this dependence is servile; its right of debate has gone, and while, on rare occasions when excitement carries it away from the control to which it generally submits, its power to debate seems to have departed with the right; its ablest men are kept out of place and power, for it is the nature of such an oligarchy as that which now rules the body to be jealous of ability; indeed, an able and independent man, unless his interests depend upon his self-effacement, could not submit to such a rule as that which now is well nigh despotic over the House of Representatives. Revolting members, unless they are unusually strong men, are denied their proper position in the House and they are also prevented from rendering useful services to their constituents or to the country; their bills will not be considered, and they are denied the right of debate, when debate takes place.

These are unquestioned evils of the House of Representatives, and they result not from the rules themselves, but from their maladministration, from the abuse of the power which the Speaker and his friends have taken to themselves. No machinery of procedure can cure such a defect. The country can only hope that some day it will itself acquire sufficient virtue to send to the House men who will complete the development of procedure so that those who have power shall also have responsibility, and so, also, that there shall be debate, in a word so that a civilized form of government, of law making especially, shall be established for a civilized people.

The book contains much that is interesting, and some things that are confusing, about the Senate and the State Legislatures. Professor Reinsch seems to be of the impression that the time is coming when the partnership between the government and the great corporations shall be more complete than it is; when, in other words, it will become more profitable for corporations to corrupt government. Into that part of the book I shall not follow him beyond expressing the hope that he is mistaken and that the movement for "co-ordination," as he euphemistically expresses, or conceals, his meaning, will not destroy the democracy until it has been demonstrated beyond peradventure to be unable to work out its problems.

THE LAW OF TORTS. By MELVILLE MADISON BIGELOW. Eighth Edition. Boston: Little, Brown & Co. 1907. pp. xxxv, 502.

In 1878, some three years after the appearance of Mr. Bigelow's "Leading Cases on the Law of Torts," he put forth a small handbook entitled "Elements of the Law of Torts, for the use of Students." This was at once well received as a valuable contribution to the rapidly increasing literature upon this subject. Since then seven successive editions have appeared; the eighth having just been published. In this process of evolution the students' handbook, with its practical exercises, has become a compact, concise treatise now covering every branch of the law of Torts.